

Endst. No. 1966, dated the 21st September, 1987.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under Section 15 of I. D. Act.

K. K. DODA,
Presiding Officer,
Labour Court, Ambala.
Camp at Panipat.

No. 9/1/87-6Lab./8154.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the management of Haryana Roadways, Yamuna Nagar.

BEFORE SHRI K. K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 59 of 1984

between

SHRI AMAR NATH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF
HARYANA ROADWAYS, YAMUNA NAGAR.

Present:

Shri Madhu Sudan, for the workman.

Shri Rama Kant, A. D. A., for the respondent.

AWARD

The Hon'ble Governor of Haryana in exercise of powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute between Shri Amar Nath, workman and the respondent-management of Haryana Roadways Yamuna Nagar. The questions for adjudication were :—

Whether termination of service of Amar Nath is justified and in order ? If not, to what relief is he entitled ?

2. The case was transferred by the Haryana Government to the Labour Court, Ambala. It was received in March, 1985.

3. Both the parties, in response to the notices appeared. Workman stated that his demand notice may be treated as claim statement. In his demand notice dated the 19th August, 1987 workman has stated that he was working on a permanent post and had been serving for the last couple of years. He termed the order of his termination dated the 27th June, 1983 as illegal and arbitrary. He contended that there was no right and genuine material for his dismissal from service.

4. Respondent-management i. e. General Manager, Haryana Roadways, Yamuna Nagar filed written statement on 10th December, 1985. Disclosed that the services of the workman Shri Amar Nath were terminated legally after holding departmental enquiry and affording him full opportunities required under the law. The workman was charge-sheeted, he filed reply to the charge-sheet. Assistant Accounts Officer was appointed as Enquiry Officer. The workman was afforded full opportunity and he took part in the enquiry. The Enquiry Officer gave report holding that the charges stood proved against the workman. Show cause notice was issued to the workman proposing his dismissal. The workman Shri Amar Nath submitted his reply. He was also afforded opportunity of personal hearing. Thereafter, speaking order of terminating the services of the workman was passed.

5. The workman in his replication stated that the assertions of the management were not correct. He was not at all guilty of the charges levelled against him. He submitted that he has been punished; whereas the man who allegedly committed theft is still on duty. Theft case is still pending in the Criminal Court and he is not accused in that case. Material on record did not justify his dismissal. He prayed for reinstatement with continuity of service and full back wages.

6. Following issues were laid down by learned predecessor on 8th January, 1986 for decision:—

- (i) Whether the order of terminating of services of the workman is illegal ? If so, its effect ?
OPW.
- (ii) Relief ?

7. The workman Amar Nath appeared in the witness-box on 21st August, 1986. Respondent-Management examined Shri Baljit Singh, Clerk and Shri K.K. Verma, Accounts Officer who had conducted enquiry. Reliance has been placed upon photostat copies Exhibits M-1 to M-12 of the memo of charge and other enquiry proceedings.

8. Shri Madhu Sudan represented the workman. Shri Rama Nand, A.D.A. represented the respondent-management. Opportunity of hearing given to the learned representatives of the parties and material on record has also been gone through carefully.

9. My findings on the issues with the reasons are as under :—

10. Issue No. 1.—It is not disputed that the workman Shri Amar Nath has been terminated as a punishment inflicted by way of disciplinary action. So the only question to be determined is whether or not requisite procedure was followed. It is now an admitted fact that theft of cash amount Rs. 1½ lakhs approximately has taken place from the cash section of Haryana Roadways, Yamuna Nagar on the night between 6/7th January, 1982 and the workman Amar Nath was on duty at the premises from where the theft had taken place.

11. After having scrutinised the entire material on record with requisite anxiety, I find no fallacy in the enquiry proceedings, directed against the workman Shri Amar Nath. Most of the material facts have been admitted by the workman Shri Amar Nath in his evidence before this Court. He admitted that he had received charge-sheet and memo of allegations. He admitted that he had taken part in the proceedings and had appended his signatures below the statements of the witnesses recorded by the Enquiry Officer. Although he expressed his ignorance about the recording of his statement by the Enquiry Officer but the documentary evidence shows that his statement was recorded. He admitted that he had furnished reply to the charge-sheet, and to the show cause notice issued to him by the General Manager, Haryana Roadways, Yamuna Nagar, after conclusion of the enquiry. He admitted that he was given opportunity of personal hearing before the order of his termination was passed. The respondent-management has also placed on record documentary evidence in order to prove that procedure prescribed by law was followed and that the ultimate order of termination of services of the workman is perfectly legal. Exhibit M-1 is the photostat copy of memo of allegations, along with the proof that the workman had received the same. Exhibit M-2 is the photostat copy of charge-sheet along with list of witnesses. Ex. M-3 photostat copy of reply submitted by the workman Shri Amar Nath. Exhibit M-4 is the photostat copy of interim proceedings recorded by the General Manager, Haryana Roadways, Yamuna Nagar. Exhibit M-5 is the photostat copy of the order, dated the 17th August, 1982,—vide which (Shri K. K. Verma, M. W. 2) was appointed Enquiry Officer. Ex. M-6 is the photostat copy of letter sent by the Enquiry Officer to the workman intimating that the enquiry would be held on 3rd May, 1983 in his office. Ex. M-7 is the photostat copy of the statements of Amar Nath, workman, Ram Singh, Assistant Cashier and Prem Nath, Cashier. These documents show that the workman had taken part in the enquiry proceedings. Ex. M-9 is the photostat copy of the order,—vide which the General Manager, Haryana Roadways, Yamuna Nagar issued show cause notice dated 31st May, 1983 to the workman proposing his termination. Ex. M-8 is the photostat copy of the report submitted by the Enquiry Officer. There is endorsement of the General Manager, Haryana Roadways, Yamuna Nagar,—vide which he agreed with the finding of the Enquiry Officer. Ex. M-10 is the photostat attested copy of the reply, dated 8th June, 1983 submitted by the workman Shri Amar Nath, Gunman. Ex. M-11 is photostat attested copy,—vide which the workman was offered opportunity of personal hearing by the General Manager, Haryana Roadways on 25th June, 1983 at his office. Ex. M-12 is the ultimate speaking order,—vide which the services of Gunman Shri Amar Nath were terminated.

12. Main allegations against the workman Shri Amar Nath were that while he was on duty at cash section of Yamuna Nagar on the night of 6th January, 1982 when the theft had taken place, he had slept and was found sitting with the Chowkidar of workshop gate, leaving the premises of his duty and that he was not having his gun also with him at that time. Further, that the theft had taken place because of his negligence. Specifically it was alleged that he had been negligent in performing his duty. These main allegations stand proved not only from the evidence of Ram Singh and Prem Nath (recorded by the Enquiry Officer) but from the statement of the workman himself, given by him before the Enquiry Officer, and from other material and contradictory stand taken by the workman at different stages. In his demand notice the workman has nowhere stated that he was all the time present at the premises of his duty on the night between 6/7th January, 1982, when the theft had taken place from cash section of Haryana Roadways, Yamuna Nagar. In his replication also he has not stated so. In his evidence before this Court he has not at all stated that he had performed his duty as gunman Chowkidar while waking on the night of 6/7th January, 1982 at the premises of his duty. In his reply to the memo of allegations (Ex. M-3) he laid stress mainly on this point that he was not provided with the gun and cartridges. He stated in his reply that, at about 2.00 a.m. he had gone to toilet to ease himself and when he came back he found the lock on cash room intact. In his statement before the Enquiry Officer, he stated that because of pain in his abdomen, he had gone to the toilet repeatedly. Further, he had gone to the Chowkidar at the gate as they both were on visiting terms as usual. In reply to the questions put to him by the Enquiry Officer he admitted that he had been to a stationery bus during his duty

hours and sat there for some time when some other were also there. In his reply dated 8th June, 1983 (Ex. M-10) to the show cause notice dated 31st May, 1983, he has nowhere stated as to where he was at the time of his duty at night hours nor he has denied that he had gone to toilet repeatedly to ease himself and that he had sat in the stationary bus also. At every stage he has admitted that locks of the cabine and cash room, where he was on duty were intact when Ram Singh Assistant Cashier had checked those in his presence at 10.00 P.M. On the morning 7th January, 1982, according to the statement of Ram Singh, Gunman was found sitting with gate keeper Hardev Singh and when the cash Section was checked by the Assistant Cashier in his presence then it was detected that theft had taken place. The workman Amar Nath at no stage has challenged the version of Shri Ram Singh Ex. M-7 shows that the workman had categorically stated before the enquiry officer that he did not want to put any question to Prem Nath and Ram Singh whose statements were recorded by the enquiry officer.

13. From the discussion made above, it becomes clear that the workman Amar Nath was negligent in performing his duty at night hours. Material on record leads to this conclusion that he did not remain present during that night at the premises of his duties but had either slept somewhere and had gone to chat with the chowkidar at the gate. It did not matter that the workman had not been provided with the gun or that he had no gun with him. Had he been present at the premises of his duty in waiting condition all the time then there were no chances of theft from the cash Section of the depot.

14. Consequently, it is held that the workman has rightly been held guilty for having performed his duties negligently. It is further held that the procedure prescribed by law, for holding enquiry, was rightly followed and there had been no fallacy in it. Taking into consideration that there had been loss of about Rs. 1½ lakhs in the theft, I am of the view that punishment given to the workman Amar Nath, for whose negligence the theft had taken place, is just and proper. Issue No. 1 is, thus decided against the workman.

15. Relief.—As a consequence of finding on issue No. 1 it is held that termination of services of the workman is legal, just and proper. As discussed above, he is not entitled to any relief.

Reference is answered accordingly.

The 16th September, 1987.

K. K. DODA,

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 1983, dated the 25th September, 1987.

Forwarded (five copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department Chandigarh as required under Section 15 of I.D. Act.

K. K. DODA,

Presiding Officer,
Labour Court, Ambala.

The 20th October, 1987

No. 9/3/87-6Lab./8086.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s D. P. Auto Industries, 228/24 Faridabad:—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD.

Reference No. 24 of 1986

between

SHRI RAMESH CHANDER SHARMA, WORKMAN AND THE MANAGEMENT OF M/S
D. P. AUTO INDUSTRIES, 228/24, FARIDABAD

None for the parties.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the service matter between the

workman Shri Ramesh Chander and the management of M/s. D. P. Auto Industries 228/24, Faridabad, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 51039—43, dated 18th December, 1985.

2. None has appeared. It means that the parties have settled the dispute at their own level. No further action is needed in the reference and the same is accordingly answered.

Dated the 30th September, 1987.

A. S. CHALIA,

Presiding Officer,
Labour Court, Faridabad.

Endst. No. 1872, dated 30th September, 1987.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

A. S. CHALIA,

Presiding Officer,
Labour Court, Faridabad.

No. 9/3/87-6Lab./8087.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal Faridabad in respect of the dispute between the workman and the management of M/s (1) Clutch Auto Ltd., Sector 37, Mathura Road, Faridabad. (ii) Shiv Industrial Security Service Plot No. 445, Sector 18, Faridabad:—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Ref. No. 100 of 1987

between

SHRI DEWAKAR SINGH, WORKMAN AND THE MANAGEMENT OF MESSRS CLUTCH AUTO LTD., SECTOR 37, MATHURA ROAD FARIDABAD, (2) SHIV INDUSTRIAL SECURITY SERVICE PLOT NO. 445, SECTOR 18, FARIDABAD.

Shri B. L. Gupta, for the workman.

Shri G. S. Chaudhary, for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (I) of section 10 of the Industrial Disputes Act, 1947 the Governor of Haryana referred the service matter between the workman Shri Dewakar Singh and the management of M/s. Clutch Auto Ltd., Sector 37, Mathura Road Faridabad, (2) Shiv Industrial Security Service, Plot No. 445, Sector 18, Faridabad to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 5797—5803, dated 9th February, 1987.

2. The management had produced on file photostat copy of payment voucher dated 20th September, 1986 to the effect that the amount of Rs 391 has already been paid to him towards full and final settlement of the matter in dispute. Direction was issued for the appearance of workman to admit or deny the contents thereof but he has not turned up. In this manner there is no reason to disbelieve the version of the respondent and the reference is hereby answered to the effect that it has already been settled by the workman with the respondent-management.

Dated the 30th September, 1987.

A. S. CHALIA,

Presiding Officer,
Labour Court, Faridabad,